



## MTA NON-REVENUE FLEET: VEHICLE ASSIGNMENT AND USAGE – FINAL REPORT

**Carolyn Pokorny**  
MTA Inspector General  
State of New York

### I. EXECUTIVE SUMMARY

The Office of the MTA Inspector General (OIG) reviewed Metropolitan Transportation Authority (MTA) compliance with the New York State Vehicle Use Policy (State Policy) governing employee use of state-owned vehicles. A particular focus of our review was Permanently Assigned Vehicles (PAVs), which represent approximately 9% of the MTA's non-revenue fleet, and are defined by the MTA as vehicles provided to individual employees to take home while their job duties require them to be on call and respond to operational incidents and emergencies.

During our review, we interviewed agency fleet management personnel and reviewed E-ZPass<sup>®</sup> transactions, GPS records, vehicle use logs, payroll, and other records to identify potential misuse of official vehicles by MTA employees. We found no evidence in our sample that MTA employees had inappropriately used state vehicles based on the records available to us. However, we found that the MTA deviates from State Policy in 2 key areas: (1) maintaining and auditing use logs; and (2) approving PAV assignments. Additionally, we recommend the MTA adopt 2 changes in its practices to deter vehicle misuse.

In June, 2020 we shared our Draft Report with MTA for comment. The Report contained 6 recommendations including the need to revise MTA's non-revenue vehicle policy to mirror State Policy. In his August 10, 2020 response, the MTA Chairman noted that MTA takes the matters raised in the Report seriously. MTA agreed with 5 recommendations, and stated that it would take steps to improve the management of its non-revenue vehicle fleet. One recommendation (#5) is that Metro-North Railroad (MNR) assign permanent vehicles based on actual need, not employee titles. MNR agreed, but included a caveat that their territory is so broad, that the need to respond to emergencies has to be considered when making permanent vehicle assignments. MTA's responses to each recommendation appear at the end of this Report.

#### A. Summary of Findings

OIG's review did not find any inappropriate use of state vehicles based on records available, however we identified the following non-compliance with the State Policy:

- State Policy requires agencies to keep vehicle use logs to track specific vehicle information, including fuel usage and trip purpose and to conduct periodic audits of the logs for completeness and accuracy. Long Island Rail Road (LIRR) and MNR do not require employees to keep logs, while logs kept by New York City Transit (NYC Transit), Bus Operations (Buses), and Bridges and Tunnels (B&T) do not contain all the required fields of information. In addition to lacking full compliance with State Policy for maintaining vehicle use logs, MTA agencies do not comply with the required periodic reviews of the logs.
- State Policy provides that the assignment of vehicles to specific employees on a permanent basis is permissible “only in extraordinary circumstances” and requires agencies to seek approval from the State Director of Operations. MTA policy replaces the State Director of Operations with the MTA Chairman and requires approval only for PAV assignments that exceed 30 days.
- State Policy also mandates that State agencies and authorities provide the use of state vehicles to any employees whose jobs require them to travel 15,000 miles or more annually to conduct business. OIG reviewed MTA agencies’ compliance with this policy and identified 19 LIRR employees who in 2019 used their personal vehicles to travel at least 15,000 miles for railroad business; therefore, they should have been provided the use of a state vehicle. LIRR management was unaware of this requirement and it is not included in the existing MTA policy.

While not compliance issues, we believe the following findings present opportunities for MNR to improve its vehicle assignment practices, as well as for all MTA agencies to reduce the potential for employee misuse of state vehicles.

- MNR, which accounts for a disproportionately large share of PAV usage among the MTA agencies, assigns vehicles to employees based solely on job titles that indicate a potential need to respond to operational incidents and emergencies. However, MNR does not consider whether the employees in these titles have demonstrated the actual need to frequently use their vehicles for its incidents and emergencies.
- Approximately 16% of all MTA vehicles used by civilian employees are only marked with an MTA official license plate; unlike the rest of the civilian fleet they do not have decals on the back and/or sides. The MTA affiliation should be made more visible to deter non-business use of the vehicles.

## **B. Recommendations**

1. MTA agencies should maintain use logs for all vehicles and the logs should include all information required by the State Policy. A designated supervisor should regularly collect the vehicle use logs, review, and approve them for completeness and accuracy.
2. MTA should comply with the State Policy requiring the State Director of Operations to approve all permanent vehicle assignments, or obtain a formal waiver exempting it from compliance.
3. LIRR should comply with the State Policy mandating that state vehicles be provided for use by employees whose jobs require them to travel 15,000 miles or more annually to conduct business, or where LIRR concludes this is not-cost effective, it should obtain the appropriate State waiver.
4. MTA should update its policy to include the requirement that state vehicles be provided to employees whose jobs require them to travel 15,000 miles or more annually.
5. MNR should assign permanent vehicles based on actual need, rather than on employee titles. Additionally, MNR should consider employing other potential cost-saving alternatives such as designating pool cars and reimbursing employees for business use of their personally-owned vehicles within the State Policy.
6. MTA agencies should clearly mark with agency decals all vehicles designated for civilian employee use to lessen the risk of employees using official vehicles for non-business purposes.

## **II. BACKGROUND**

### **A. Policies for Assignment and Use of Official Vehicles**

The use of State-owned, non-revenue producing vehicles is governed by the State Policy, which was issued on November 27, 2013, and which was updated and reiterated in 2015 and 2017. Each State agency or public authority is required to establish vehicle assignment, use, and control procedures consistent with this policy. A State agency or authority that wishes to implement vehicle procedures contrary to the State Policy must obtain the approval of the Director of State Operations or their designee.

In compliance with the State Policy, in July 2014, the MTA issued an All Agency Policy Directive entitled *Assignment and Use of Official Vehicles* (Directive). The Directive itself states

it was intended to be consistent with the State Policy. However, as discussed in detail later in this report, we identified inconsistencies between State Policy and the Directive that will require that the MTA either revise the Directive or seek a waiver to allow the MTA to deviate from the State Policy.

## B. MTA Vehicle Fleet Composition

As of January 2020, the MTA’s non-revenue vehicle fleet for civilian use consisted of 4,191 vehicles (Table 1). The agencies maintain different types of vehicles in their fleet, including sedans, sport utility vehicles, pick-up trucks, and heavy work vehicles. 390 of the vehicles in the fleet (9.3%) are considered “Permanently Assigned Vehicles (PAVs).” According to State Policy and the Directive, PAVs can be assigned to employees who are first responders, on-call 24 hours per day, or responsible for ensuring public safety. These employees are permitted to take their vehicles home and use them for commuting purposes. PAVs can also be assigned to employees who need a vehicle to carry specialized tools or equipment in the performance of their duties. However, these PAVs should remain at an agency facility when not in use. The number of PAVs per agency ranges widely, as seen in the table below.

**Table 1 – Agency Non-Revenue Vehicle Count**

MTA Agency	All Vehicles	PAVs
<b>NYC Transit</b>	1,762	67
<b>Metro-North Railroad</b>	893	192
<b>Long Island Rail Road</b>	795	53
<b>Bridges &amp; Tunnels</b>	579	70
<b>Bus Operations</b>	155	7
<b>MTA Headquarters</b>	5	1
<b>Construction &amp; Development</b>	2	0
<b>Totals</b>	<b>4,191</b>	<b>390</b>

## III. FINDINGS

State Policy dictates that State-owned vehicles are to be used solely for official business, except where personal use is explicitly authorized or personal use is incidental to official business.<sup>1</sup> OIG analyzed a large sample of 2019 records including hundreds of vehicle logs, hundreds of thousands of E-ZPass records, and dozens of GPS records where available — and interviewed employees where we had questions — and found no evidence that MTA employees

<sup>1</sup> See State Vehicle Use Policy, E.1 (2013).

had inappropriately used State vehicles for reasons that were unrelated to their official duties. In addition to checking for misuse of State vehicles, we reviewed MTA practices for compliance with the State Policy, as well as for potential improvements.

Agency fleet management personnel consider the Directive to be the sole governing authority for the assignment and usage of MTA official vehicles. For the most part, the Directive is consistent with the State Policy. For example, all employees who operate State-owned vehicles are monitored for driver license revocations, suspensions, and restrictions using the Department of Motor Vehicles' License Event Notification Service program. Additionally, the agencies follow Internal Revenue Service guidelines<sup>2</sup> for reporting the value of employee use of State vehicles for commutation as wages. However, we found that the Directive is inconsistent with the State Policy in 3 key areas.

### **A. Vehicle Use Logs**

State Policy requires that agencies maintain vehicle use logs for all non-revenue vehicles. Any employee who uses a non-revenue vehicle should complete a log for each segment of the trip. The logs contain several mandatory fields including the name of the driver, occupants of the vehicle, purpose of the trip, fuel purchases, and the signature of the employee completing the form. Maintaining and regularly monitoring vehicle logs is an internal control that allows management to track employee vehicle usage and to verify that employees are using vehicles for business purposes only.

Although the Directive's requirement to maintain vehicle use logs is identical to that of the State Policy, we found most MTA agencies fail to adhere to it. LIRR and MNR do not even have vehicle use logs. Fleet managers we spoke with from both agencies suggested that the necessary data can instead be obtained from the GPS installed in their vehicles. They conceded, however, that GPS data does not contain information required by the State Policy, including occupants of the vehicle, purpose of the trip, and fuel purchases. B&T, Buses, and NYC Transit maintain vehicle use logs, but each agency's log is missing 1 or more of the fields required by the State Policy. Only the logs for Construction & Development and MTA Headquarters vehicles contain all the required information.

Additionally, the State Policy requires that "Senior Staff within the central office of the agency or authority shall conduct monthly and annual audits of the vehicle use logs to ensure that vehicles usage is consistent with this policy." The MTA Directive instead requires MTA Audit Services and/or agency staff — not central office personnel — to conduct audits of the vehicle use logs, and only on an annual basis.

---

<sup>2</sup> See [Internal Revenue Service, Publication 15-B, Employer's Tax Guide to Fringe Benefits](#).

Despite the Directive deviating from the State Policy regarding the audits of vehicle logs, MTA agencies still do not comply. MTA Audit Services staff informed us that the department does not even perform such audits. LIRR and MNR do not maintain vehicle logs, so, accordingly, there is nothing to audit. And an NYC Transit fleet manager that we spoke with did not know of any audits performed even though he would have to be involved in providing the logs to an auditor. B&T officials told us that the agency does not perform its own reviews of the logs and they mistakenly believed that MTA Audit Services performed yearly reviews of B&T vehicle use logs.

### **B. PAV Approval Process**

State Policy requires the approval of the NYS Director of Operations for assignment of all State-owned vehicles on a permanent basis to specific employees, regardless of duration or use. In contrast, the MTA policy deviates in 2 key respects: it requires (1) the approval of the MTA Chairman and Agency President; (2) only for assignments of a vehicle to a single driver for more than 30 consecutive days. When asked about the discrepancies between State Policy and the Directive, the MTA Deputy General Counsel informed us that a years-old verbal waiver from the State allowed MTA officials to approve the assignment of all State-owned vehicles. The waiver, however, was never memorialized in writing.

### **C. Employees' Use of Personal Vehicles to Travel in Excess of 15,000 Miles Annually**

In 2015, the State Policy was updated to provide additional guidance for the use of Personally Owned Vehicles. This policy update requires State agencies and authorities provide the use of state vehicles to any employees whose jobs require them to travel 15,000 miles or more annually to conduct business. OIG reviewed MTA agencies' compliance with this policy and identified 19 LIRR employees who in 2019 used their personal vehicles for at least 15,000 miles to conduct railroad business. The LIRR made reimbursements ranging from \$8,672.45 to \$20,098.46 to these employees for the use of their personal vehicles for a total of \$215,172.31. LIRR officials we spoke to were unaware of the 2015 update and it is not in the MTA Directive, which has not been updated since July 2014. While LIRR's practice of allowing business use of personal vehicles resulted in a smaller fleet of PAVs, LIRR is not in compliance with State Policy and this practice could be costing the agency more than necessary.

In addition to the above areas of non-compliance, we noted 2 other areas of opportunities for MTA agencies to better manage their fleets.

#### D. Concern About MNR's Large Fleet of Permanently Assigned Vehicles

Despite LIRR having 14.5% more employees than MNR, MNR has over 3.5 times more PAVs than LIRR. In compliance with State Policy, both Railroads certify every year that drivers with PAVs are designated as first responders or are on-call to respond to emergencies 24/7.

To determine the frequency that MNR employees with PAVs respond to operational incidents and emergencies, OIG analyzed how often they were paid overtime for such responses after hours in 2019. OIG also conducted, with the assistance of MNR's fleet manager, a survey of 117 out of the 192 employees with PAVs. As shown below, slightly more than half of the employees in 2019 either never used their vehicles to respond to an emergency or did so only once.

- 28 drivers (23.9%) never used their vehicles for emergency responses.
- 31 drivers (26.5%) used their vehicles only once for emergencies.
- 58 drivers (49.6%) used their vehicles 2 times or more for emergencies.

According to our interviews with MNR fleet management, MNR assigns vehicles based on employee titles. Although the titles of these employees indicate that they have the potential to be first responders to operational incidents and emergencies, not all of these employees have a recent history of frequent use of their vehicles for these types of responses. If PAV assignments were based on historical usage, it appears that many MNR employees would not meet the State Policy's requirements<sup>3</sup> to have a PAV. In our opinion, the current method of assigning PAVs based on job titles without considering the actual vehicle usage may result in more vehicles assigned than was intended under the State Policy. Furthermore, we noted that MNR allows all employees with PAVs to take their vehicles home and use them for commutation, which is a generous benefit to those who did not even once in 2019 respond to an emergency. While MNR's vehicle assignment practice gave an appearance of compliance with State Policy, it may not be the best practice. Therefore, MNR should re-examine the appropriateness of its vehicle assignment practice.

LIRR management pursues a more conservative approach to vehicle assignment. Within the small subset of LIRR employees who historically respond to operational incidents and emergencies, LIRR encourages the use of pool or personal vehicles. While LIRR vehicle assignment is also based on employees' job titles, annual review of vehicle usage, employee residence, and availability of facility parking is conducted to determine whether an employee is

---

<sup>3</sup> See State Vehicle Use Policy, D.3.(b) (2013).

permitted to take home their PAV. As a result, LIRR permitted only about two-thirds of employees with PAVs (36 of 53) to take their vehicles home and use them for commutation.

#### **E. MTA Vehicles Should be Marked Official**

All but 1 of the MTA's non-law enforcement vehicles have license plates identifying them as MTA vehicles. However, 664 of the 4,605 (16.8%) civilian use vehicles in the MTA fleet do not have agency decal markings on their backs or sides. Notably, 114 of these 664 unmarked cars (17.2%) are PAVs.

The State Policy does not specifically address whether or how state vehicles should be marked. However, across New York State agencies and authorities, State-owned vehicles are visibly marked to discourage personal use. MTA agencies should make their vehicles more visible by adding agency decals to all non-law enforcement vehicles, in addition to displaying MTA license plates.

### **IV. RECOMMENDATIONS**

1. MTA agencies should maintain use logs for all vehicles and the logs should include all information required by the State Policy. A designated supervisor should regularly collect, review, and approve them for completeness and accuracy.

*Agency Response: Agreed. All agencies will have a form containing all the fields required under the State Policy by the end of Q3 2020 or will obtain State approval to streamline the collection of the required data by other methods. All employees will be required to complete the form and supervisors will have to conduct periodic review of the logs.*

2. MTA should comply with the State Policy requiring the State Director of Operations to approve all permanent vehicle assignments, or obtain a formal waiver exempting it from compliance.

*Agency Response: Agreed.*

3. LIRR should comply with the State Policy mandating that state vehicles be provided for use by employees whose jobs require them to travel 15,000 miles or more annually to conduct business, or where LIRR concludes this is not cost-effective, it should obtain the appropriate State waiver.

*Agency Response: Agreed.*



4. MTA should update its policy to include the requirement that state vehicles be provided to employees whose jobs require them to travel 15,000 miles or more annually.

*Agency Response: Agreed.*

5. MNR should assign permanent vehicles based on actual need, rather than on employee titles. Additionally, MNR should consider employing other potential cost-saving alternatives such as designating pool cars and reimbursing employees for business use of their personally-owned vehicles within the State Policy.

*Agency Response: Agreed. The MTA responded that MNR's permanent vehicle assignments will be done appropriately, based on actual need. In addition, MNR will consider cost-saving alternatives, as recommended and appropriate. However, the agency clarified that it will seek State approval to assign vehicles on a permanent basis in locations where MNR's large operating territory and areas with terrain accessible only by the agency's specialized vehicles require such assignments to ensure rapid response to emergencies.*

6. MTA agencies should clearly mark with agency decals all vehicles designated for civilian employee use to lessen the risk of employees using official vehicles for non-business purposes.

*Agency Response: Agreed.*